

HOUSE BILL No. 1364

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-14-8-3; IC 13-22-2-4; IC 13-23-1-2.

Synopsis: Environmental rulemaking. Prohibits the air pollution control board, water pollution control board, and solid waste management board from adopting a rule or standard that is more stringent than a corresponding federal provision established under federal law unless the: (1) rule or standard is adopted under a statute that authorizes the board to adopt a rule or standard that is more stringent than the corresponding federal provision; (2) rule expires not later than January 1 of the seventh year after the year in which the rule takes effect; (3) standard is included in an emergency order under certain circumstances; or (4) rule or standard is included in an emergency rule under certain circumstances.

Effective: July 1, 2006.

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January 12, 2006, read first time and referred to Committee on Environmental Affairs.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1364

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-14-8-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. **(a)** A rule or
3 standard adopted by a board may:

4 (1) make different provisions as required by varying
5 circumstances and conditions for different contaminant sources
6 and for different geographical areas;

7 (2) be made applicable to sources outside Indiana that:

8 (A) are causing;

9 (B) are contributing to; or

10 (C) could cause or contribute to;

11 environmental pollution in Indiana; and

12 (3) make provision for abatement standards and procedures:

13 (A) concerning occurrences, emergencies, or pollution; or

14 (B) on other short term conditions constituting an acute danger
15 to health or to the environment.

16 **(b) Except as provided in subsection (c), a rule or standard**
17 **adopted by a board may not be more stringent than a**



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corresponding federal provision established under federal law.

(c) A rule or standard adopted by a board may be more stringent than a corresponding federal provision established under federal law if the rule or standard meets at least one (1) of the following criteria:

(1) The rule or standard is adopted under a statute enacted by the general assembly that authorizes the board to adopt a rule or standard that is more stringent than the corresponding federal provision established under federal law.

(2) The rule expires not later than January 1 of the seventh year after the year in which the rule takes effect as provided in IC 4-22-2.5-2.

(3) The standard is included in an emergency order issued under IC 4-21.5-4 if:

(A) the governor and commissioner determine that an emergency exists under IC 4-21.5-4-1(1) that requires the standard to be more stringent than the corresponding federal provision established under federal law; and

(B) notwithstanding IC 4-21.5-4-5, the emergency order expires on the earliest of the following:

(i) The date set in the order.

(ii) The elapse of ninety (90) days.

(iii) The next April 30 following the date the emergency order is issued under IC 4-21.5.

(4) The rule or standard is included in an emergency rule adopted under IC 4-22-2-37.1 if, notwithstanding IC 4-22-2-37.1(g), the emergency rule expires the earlier of the following:

(A) Not later than ninety (90) days after the date the emergency rule is accepted for filing under IC 4-22-2-37.1(e).

(B) The next April 30 following the date the emergency rule is accepted for filing under IC 4-22-2-37.1(e).

SECTION 2. IC 13-22-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-8 on the proper and safe transportation, treatment, storage, and disposal of hazardous wastes. Whenever possible, the rules adopted under this section must allow for variation in Indiana with regard to population density, climate, and geology.

(b) Except as provided in subsection (c), rules adopted under this section concerning incinerators used as hazardous waste facilities may

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1 **not** establish requirements **that are** more stringent than the
 2 requirements for hazardous waste incinerators established by
 3 regulations adopted by the Administrator of the United States
 4 Environmental Protection Agency under the following statutes:

5 (1) The federal Resource Conservation and Recovery Act (42
 6 U.S.C. 6901 et seq.).

7 (2) The federal Clean Air Act (42 U.S.C. 7401 et seq.), as
 8 amended by the federal Clean Air Act Amendments of 1990
 9 (P.L.101-549).

10 **(c) A rule adopted under this section concerning incinerators**
 11 **used as hazardous waste facilities may establish requirements that**
 12 **are more stringent than a corresponding federal provision**
 13 **established under federal law if the rule meets at least one (1) of**
 14 **the following criteria:**

15 (1) The rule is adopted under a statute enacted by the general
 16 assembly that authorizes the board to adopt a rule that is
 17 more stringent than the corresponding federal provision
 18 established under federal law.

19 (2) The rule expires not later than January 1 of the seventh
 20 year after the year in which the rule takes effect as provided
 21 in IC 4-22-2.5-2.

22 (3) The rule is included in an emergency rule adopted under
 23 IC 4-22-2-37.1 if, notwithstanding IC 4-22-2-37.1(g), the
 24 emergency rule expires the earlier of the following:

25 (A) Not later than ninety (90) days after the date the
 26 emergency rule is accepted for filing under
 27 IC 4-22-2-37.1(e).

28 (B) The next April 30 following the date the emergency
 29 rule is accepted for filing under IC 4-22-2-37.1(e).

30 SECTION 3. IC 13-23-1-2 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The board shall
 32 adopt rules under IC 4-22-2 and IC 13-14-8 for the establishment and
 33 operation of the program established under section 1 of this chapter.

34 (b) **Except as provided in subsection (d),** the rules ~~must~~ **may** not
 35 be **more or** less stringent than the regulations adopted by the
 36 Administrator of the United States Environmental Protection Agency
 37 under Section 9003 of the federal Solid Waste Disposal Act, as
 38 amended (42 U.S.C. 6991b, as amended).

39 (c) The rules adopted under subsection (a) must include the
 40 following:

41 (1) Requirements for maintaining:

42 (A) a leak detection system;

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(B) an inventory control system coupled with tank testing; or
 (C) a comparable system or method;
 designed to identify releases in a manner consistent with the
 protection of human health and the environment.

(2) Requirements for maintaining records of any:

- (A) monitoring;
- (B) leak detection system;
- (C) inventory control system or tank testing; or
- (D) comparable system.

(3) Requirements for reporting of:

- (A) any releases; and
- (B) corrective action taken in response to a release.

(4) Requirements for ordering or taking corrective action in
 response to a release.

(5) Requirements for closure of underground storage tanks to
 prevent future releases of regulated substances into the
 environment.

(6) Requirements for maintaining evidence of financial
 responsibility for:

- (A) taking corrective action; and
- (B) compensating third parties for bodily injury and property
 damage caused by sudden and nonsudden accidental releases
 arising from the operation of an underground storage tank.

(7) Standards of performance for new underground storage tanks.

(8) Requirements for the following:

- (A) Providing notice to the department of the existence of
 operational and nonoperational underground storage tanks, as
 required under 42 U.S.C. 6991a(a).
- (B) Providing the information required on the form prescribed
 under 42 U.S.C. 6991a(b)(2).
- (C) Providing notice, by any person who sells a tank intended
 to be used as an underground storage tank, to the purchaser of
 that tank of the owner's notification requirements established
 by this article and 42 U.S.C. 6991a(a).

**(d) A rule adopted under this section may be more stringent
 than a corresponding federal provision established under federal
 law if the rule meets at least one (1) of the following criteria:**

- (1) The rule is adopted under a statute enacted by the general
 assembly that authorizes the board to adopt a rule that is
 more stringent than the corresponding federal provision
 established under federal law.**
- (2) The rule expires not later than January 1 of the seventh**

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1 year after the year in which the rule takes effect as provided
2 in IC 4-22-2.5-2.

3 (3) The rule is included in an emergency rule adopted under
4 IC 4-22-2-37.1 if, notwithstanding IC 4-22-2-37.1(g), the
5 emergency rule expires the earlier of the following:

6 (A) Not later than ninety (90) days after the date the
7 emergency rule is accepted for filing under
8 IC 4-22-2-37.1(e).

9 (B) The next April 30 following the date the emergency
10 rule is accepted for filing under IC 4-22-2-37.1(e).

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